

AMENDED IN ASSEMBLY JUNE 10, 2008

AMENDED IN SENATE APRIL 10, 2007

SENATE BILL

No. 1016

Introduced by Senator Wiggins

February 23, 2007

An act to amend ~~Section 41821 of, and to add Section 41826 to, the Public Resources Sections 40181, 40183, 40184, 41780, 41783, 41820.6, 41821, 41850, 42921, and 42926 of, to amend the headings of Article 4 (commencing with Section 41825) and Article 5 (commencing with Section 41850) of Chapter 7 of Part 2 of Division 30 of, to add Sections 40127, 40144, 40150.1, 41780.05, 42921.5, and 42927 to, and to repeal and add Section 41825 of, the Public Resources Code, relating to solid waste.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1016, as amended, Wiggins. Diversion: ~~annual report. compliance:~~
per capita disposal rate.

~~The~~

(1) *The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires each city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan containing specified components. Those entities are required to divert, from disposal or transformation, 50% of the solid waste through source reduction, recycling, and composting subject to the element, except as specified. A city, county, or regional agency is required to submit an annual report to the board summarizing its progress in reducing solid waste. Existing law requires the board to review, a least once every 2 years, a jurisdiction's source reduction*

and recycling element and household hazardous waste element. The board is required to issue an order of compliance if the board finds that a jurisdiction has failed to implement its source reduction and recycling element or its household hazardous waste element, pursuant to a specified procedure. If, after issuing an order of compliance, the board finds the city, county, or regional agency has failed to make a good faith effort to implement those elements, the board is authorized to impose administrative civil penalties upon the city, county, or regional agency.

~~This bill would authorize the board, if it determines that a city or county has diverted more than 50% of solid waste from landfill disposal through source reduction, recycling, and composting activities, to instead submit once every 2 years the information required in the report. The bill would provide that if the board authorizes a city or county to submit this information once every 2 years, and either the city or county subsequently fails to divert 50% of the solid waste, or if the board rescinds the authorization, the city or county would be required to submit the report annually.~~

This bill would define the terms “diversion program,” “jurisdiction,” and “multicounty regional agency,” for purposes of the act and would revise the definitions of the terms “rural city” and “rural county.” The bill would delete the condition that the solid waste subject to source reduction, recycling, and composting under these provisions, be diverted from landfill disposal or transformation.

The bill would repeal the board’s existing 2-year process and instead require the board to make a finding whether each jurisdiction was in compliance with the act’s diversion requirements for calendar year 2006 and to review a jurisdiction’s compliance with those diversion requirements in accordance with a specified schedule, which would be conditioned upon the board finding that the jurisdiction is in compliance with those requirements or has made a good faith effort to implement its source reduction and recycling element and household hazardous waste element.

The bill would require the board to issue an order of compliance if the board finds that the jurisdiction has failed to make a good faith effort to implement its source reduction and recycling element or its household hazardous waste element, pursuant to a specified procedure. The board would be required to comply with certain requirements, in making this determination.

The bill would revise the information required to be included in the jurisdiction's annual report to the board and would require the report to be submitted to the board electronically. The bill would make conforming changes regarding the compliance order and related enforcement provisions. The bill would impose a state-mandated local program by imposing new duties upon local agencies.

(2) Existing law requires each state agency, as defined, to develop and adopt, in consultation with the board, an integrated waste management plan. Each state agency and large state facility is required to divert at least 50% of the solid waste generated by the state agency or large state facility from landfill disposal or transformation facilities. "State agency" is defined, for purposes of these requirements, to include the California Community Colleges.

This bill would require the board to determine if a state agency or large state facility is in compliance with the 50% diversion requirement by comparing the annual per capita disposal rate of the state agency or large state facility with the per capita disposal rate that the agency or facility necessary to comply with much. The board would be authorized to consider an agency's or facility's per capita disposal rate as a factor in determining whether the agency or facility is adequately implementing its integrated waste management plan.

The bill would require a community college district to expend the revenues derived from the sale of recyclable materials for the purposes of offsetting recycling program costs and to expend all cost savings that result from implementation of the district's integrated waste management plan to fund the continued implementation of the plan. A community college district would also be required to expend the revenues and cost savings to offset recycling program costs incurred from the initial date when the community college district became subject to these requirements. A community college district would be required to provide information to the board at least annually, on the quantities of recyclable materials collected for recycling, according to a schedule determined by the board and the district. The bill would impose a state-mandated local program by imposing new duties upon community colleges.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 40127 is added to the Public Resources*
2 *Code, to read:*

3 40127. “*Diversion program*” means a program in the source
4 reduction and recycling element of a jurisdiction’s integrated
5 waste management plan, specified in Chapter 2 (commencing with
6 Section 41000) of, or Chapter 3 (commencing with Section 41300)
7 of, Part 2 and that has the purpose of diverting solid waste from
8 landfill disposal or transformation through source reduction,
9 recycling, and composting activities. “*Diversion program*”
10 additionally includes any amendments, revisions, or updates to
11 the element, and any programs set forth in a time extension,
12 alternative requirement, or compliance order approved by the
13 board pursuant to Part 2 (commencing with Section 40900).

14 *SEC. 2. Section 40144 is added to the Public Resources Code,*
15 *to read:*

16 40144. “*Jurisdiction*” means a city, county, or regional agency
17 that is approved by the board pursuant to Section 40975.

18 *SEC. 3. Section 40150.1 is added to the Public Resources Code,*
19 *to read:*

20 40150.1. “*Multicounty regional agency*” means a regional
21 agency, as defined in Section 40181, that includes all of the
22 jurisdictions that are located in at least two or more rural counties.

23 *SEC. 4. Section 40181 of the Public Resources Code is*
24 *amended to read:*

25 40181. “*Regional agency*” or “*regional planning agency*”
26 means an agency formed pursuant to Chapter 5 (commencing with
27 Section 6500) of Division 7 of Title 1 of the Government Code
28 and Article 3 (commencing with Section 40970) of Chapter 1 of
29 Part 2.

30 *SEC. 5. Section 40183 of the Public Resources Code is*
31 *amended to read:*

1 40183. (a) “Rural city” ~~means either of the following: or “rural~~
2 *regional agency” means a city or regional agency that is located*
3 *within a rural county as defined in Section 40184.*

4 (1) ~~A city that has a geographic area of less than three square~~
5 ~~miles, has a current waste disposal rate of less than 100 cubic yards~~
6 ~~per day, or 60 tons per day, and is located in a rural area.~~

7 (2) ~~A city that has a population density of less than 1,500 people~~
8 ~~per square mile, has a current waste disposal rate of less than 100~~
9 ~~cubic yards per day, or 60 tons per day, and is located in a rural~~
10 ~~area.~~

11 (b) ~~Nothing in this (1) Unless the board takes action pursuant~~
12 ~~to paragraph (2), this section shall does not affect any reduction~~
13 ~~granted to a rural city or rural county by the board pursuant to~~
14 ~~Section 41787 prior to September 1, 1994 January 1, 2008.~~

15 (2) ~~The board may review and take action regarding any~~
16 ~~reduction granted to a rural city or rural county by the board in~~
17 ~~accordance with subdivision (b) of Section 41787.~~

18 SEC. 6. Section 40184 of the Public Resources Code is
19 amended to read:

20 40184. (a) “Rural county” ~~means any a county or multicounty~~
21 ~~regional agency that has a population of 200,000 or less and is~~
22 ~~located in a rural area annually disposes of no more that 200,000~~
23 ~~tons of solid waste.~~

24 (b) ~~For the purposes of this section, Section 40183, and~~
25 ~~subdivision (d) of Section 40973, “rural area” means those counties~~
26 ~~and cities located in agricultural or mountainous areas of the state~~
27 ~~and located outside the Department of Finance’s Primary~~
28 ~~Metropolitan Statistical Areas.~~

29 (c) ~~Nothing in this~~

30 (b) (1) ~~Unless the board takes action pursuant to paragraph~~
31 ~~(2), this section shall does not affect any reduction granted to a~~
32 ~~rural city or rural county by the board pursuant to Section 41787~~
33 ~~prior to September 1, 1994 January 1, 2008.~~

34 (2) ~~The board may review and take action regarding any~~
35 ~~reduction granted to a rural county in accordance with subdivision~~
36 ~~(b) of Section 41787.~~

37 SEC. 7. Section 41780 of the Public Resources Code is
38 amended to read:

1 41780. (a) ~~Each city or county jurisdiction's~~ source reduction
2 and recycling element shall include an implementation schedule
3 that shows both of the following:

4 (1) For the initial element, ~~the city or county jurisdiction~~ shall
5 divert 25 percent of all solid waste ~~from landfill disposal or~~
6 ~~transformation~~ by January 1, 1995, through source reduction,
7 recycling, and composting activities.

8 (2) Except as provided in Sections 41783; ~~and~~ 41784, ~~and~~
9 ~~41785~~, for the first and each subsequent revision of the element,
10 ~~the city or county jurisdiction~~ shall divert 50 percent of all solid
11 waste on and after January 1, 2000, through source reduction,
12 recycling, and composting activities.

13 (b) ~~Nothing in this part prohibits a city or county. This section~~
14 ~~does not prohibit a jurisdiction~~ from implementing source
15 reduction, recycling, and composting activities designed to exceed
16 ~~these the~~ requirements of this division.

17 SEC. 8. Section 41780.05 is added to the Public Resources
18 Code, to read:

19 41780.05. (a) On and after January 1, 2009, pursuant to the
20 review authorized by Section 41825, the board shall determine
21 each jurisdiction's compliance with Section 41780 for the years
22 commencing with January 1, 2007, by comparing each
23 jurisdiction's change in its per capita disposal rate in subsequent
24 years with the equivalent per capita disposal rate that would have
25 been necessary for the jurisdiction to meet the requirements of
26 Section 41780 on January 1, 2007, as calculated pursuant to
27 subdivisions (c) and (d).

28 (b) (1) For purposes of paragraph (5) of subdivision (e) of
29 Section 41825, in making a determination whether a jurisdiction
30 has made a good faith effort to implement its source reduction and
31 recycling element or its household hazardous waste element, the
32 board may consider a jurisdiction's per capita disposal only as
33 an indication of whether the jurisdiction has adequately
34 implemented its diversion programs. The board shall not consider
35 an increase in the per capita disposal rate to be determinative as
36 to whether the jurisdiction has made a good faith effort.

37 (2) When determining whether a jurisdiction has made a good
38 faith effort pursuant to Section 41825 to implement its source
39 reduction and recycling element or its household hazardous waste
40 element, the board shall consider that an increase in the per capita

1 disposal rate is the result of the amount of the jurisdiction's
2 disposal increasing faster than the jurisdiction's growth. The board
3 shall use this increase in the per capita disposal rate that is in
4 excess of the equivalent per capita disposal rate as a factor in
5 determining whether the board is required, pursuant to Section
6 41825, to more closely examine a jurisdiction's program
7 implementation efforts. This examination may indicate that a
8 jurisdiction is required to expand existing programs or implement
9 new programs, in accordance with the procedures specified in
10 Article 4 (commencing with Section 41825) and in Article 5
11 (commencing with Section 41850).

12 (3) When reviewing the level of program implementation
13 pursuant to Sections 41825 and 41850, the board shall use, as a
14 factor in determining compliance with Section 41780, the amount
15 determined pursuant to subdivision (d) when comparing a
16 jurisdiction's per capita disposal rate in subsequent years.

17 (c) (1) Except as otherwise provided in this subdivision, for
18 purposes of this section, "per capita disposal" or "per capita
19 disposal rate" means the total annual disposal, in pounds, from
20 a jurisdiction divided by the total population in a jurisdiction, as
21 reported by the Department of Finance, divided by 365 days.

22 (2) (A) If a jurisdiction is predominated by commercial or
23 industrial activities and by solid waste generation from those
24 sources, the board may alternatively calculate per capita disposal
25 to reflect those differing conditions.

26 (B) When making a calculation for a jurisdiction subject to this
27 paragraph, "per capita disposal" or "per capita disposal rate"
28 means the total annual disposal, in pounds, from a jurisdiction
29 divided by total industry employment in a jurisdiction, as reported
30 by the Employment Development Department, divided by 365 days.

31 (C) The board shall calculate the per capita disposal rate for
32 a jurisdiction subject to this paragraph using the level of industry
33 employment in a jurisdiction instead of the level of population in
34 a jurisdiction.

35 (3) If the board determines that the method for calculating the
36 per capita disposal rate for a jurisdiction provided by paragraph
37 (1) or (2) does not accurately reflect that jurisdiction's disposal
38 reduction, the board may use an alternative method of calculating
39 the per capita disposal rate that more accurately reflects the
40 jurisdiction's efforts to divert solid waste.

1 (d) The board shall calculate the equivalent per capita disposal
2 rate for each jurisdiction as follows:

3 (1) Except as otherwise provided in this subdivision, the
4 equivalent per capita disposal rate for a jurisdiction shall be
5 determined using the method specified in this paragraph.

6 (A) The calculated generation tonnage for each year from 2003
7 to 2006, inclusive, shall be multiplied by 0.5 to yield the 50 percent
8 equivalent disposal total for each year.

9 (B) The 50 percent equivalent disposal total for each year shall
10 be multiplied by 2,000, divided by the population of the jurisdiction
11 in that year, and then divided by 365 to yield the 50 percent
12 equivalent per capita disposal for each year.

13 (C) The four 50 percent equivalent per capita disposal amounts
14 from the years 2003 to 2006, inclusive, shall be averaged to yield
15 the equivalent per capita disposal rate.

16 (2) If a jurisdiction is predominated by commercial or industrial
17 activities and by solid waste generation from those sources, the
18 board may alternatively calculate the equivalent per capita
19 disposal rate to reflect those conditions by using the level of
20 industry employment in a jurisdiction instead of the level of
21 population in that jurisdiction.

22 (3) If the board determines that the method for collecting the
23 equivalent per capita disposal rate for a jurisdiction pursuant to
24 this subdivision does not accurately reflect a jurisdiction's per
25 capita disposal rate that would be equivalent to the amount
26 required to meet the 50 percent diversion requirements of Section
27 41780, the board may use an alternative method for calculating
28 the equivalent per capita disposal rate that more accurately reflects
29 the jurisdiction's diversion efforts.

30 (4) The board shall modify the percentage used in paragraph
31 (1) to maintain the diversion requirements approved by the board
32 for a rural jurisdiction pursuant to Section 41787.

33 (5) The board may modify the years included in making a
34 calculation pursuant to this subdivision for an individual
35 jurisdiction to eliminate years in which the calculated generation
36 amount is shown not to be representative or accurate, based upon
37 a generation study completed in one of the four years 2003 to
38 2006, inclusive. In these cases, the board shall not allow the use
39 of an additional year other than 2003, 2004, 2005, or 2006.

1 (6) *The board may modify the method of calculating the*
2 *equivalent per capita disposal rate for an individual jurisdiction*
3 *to accommodate the incorporation of a new city, the formation of*
4 *a new regional agency, or changes in membership of an existing*
5 *regional agency. These modifications shall ensure that a new entity*
6 *has a new equivalent per capita disposal rate and that the existing*
7 *per capita disposal rate of an existing entity is adjusted to take*
8 *into account the disposal amounts lost by the creation of the new*
9 *entity.*

10 (7) *The board shall not incorporate generation studies or new*
11 *base year calculation for a year commencing after 2006 into the*
12 *equivalent per capita disposal rate.*

13 (8) *If the board determines that the equivalent per capita*
14 *disposal rate cannot accurately be determined for a jurisdiction,*
15 *or that the rate is no longer representative of a jurisdiction's waste*
16 *stream, the board shall evaluate trends in the jurisdiction's per*
17 *capita disposal to establish a revised equivalent per capita disposal*
18 *rate for that jurisdiction.*

19 SEC. 9. *Section 41783 of the Public Resources Code is*
20 *amended to read:*

21 41783. (a) ~~For any city, county, or regional agency a~~
22 *jurisdiction's source reduction and recycling element submitted*
23 *to the board after January 1, 1995, and on or before January 1,*
24 *2009, the 50 percent diversion requirement specified in paragraph*
25 *(2) of subdivision (a) of Section 41780 may include not more than*
26 *10 percent through transformation, as defined in Section 40201,*
27 *if all of the following conditions are met:*

28 ~~(a)~~

29 (1) *The transformation project is in compliance with Sections*
30 *21151.1 and 44150 of this code and Section 42315 of the Health*
31 *and Safety Code.*

32 ~~(b)~~

33 (2) *The transformation project uses front-end methods or*
34 *programs to remove all recyclable materials from the waste stream*
35 *prior to transformation to the maximum extent feasible.*

36 ~~(c)~~

37 (3) *The ash or other residue generated from the transformation*
38 *project is routinely tested at least once quarterly, or on a more*
39 *frequent basis as determined by the agency responsible for*
40 *regulating the testing and disposal of the ash or residue, and,*

1 notwithstanding Section 25143.5 of the Health and Safety Code,
2 if hazardous wastes are present, the ash or residue is sent to a class
3 1 hazardous waste disposal facility.

4 ~~(d)~~

5 (4) The board holds a public hearing in the city, county, or
6 regional agency jurisdiction within which the transformation
7 project is proposed, and, after the public hearing, the board makes
8 both of the following findings, based upon substantial evidence
9 on the record:

10 ~~(1)~~

11 (A) The city, county, or regional agency is, and will continue
12 to be, effectively implementing all feasible source reduction,
13 recycling, and composting measures.

14 ~~(2)~~

15 (B) The transformation project will not adversely affect public
16 health and safety or the environment.

17 ~~(e)~~

18 (5) The transformation facility is permitted and operational on
19 or before January 1, 1995.

20 ~~(f)~~

21 (6) The city, county, or regional agency does not include
22 biomass conversion, as authorized pursuant to Section 41783, in
23 its source reduction and recycling element.

24 *(b) On and after January 1, 2009, for purposes of the review*
25 *authorized by Section 41825, with regard to a jurisdiction's*
26 *compliance with Section 41780 for each year commencing January*
27 *1, 2007, the board may reduce the per capita disposal rate for a*
28 *jurisdiction, as calculated pursuant to subdivision (d) of Section*
29 *41780.05, by no more than 10 percent of the average of the*
30 *calculated per capita generation tonnage amount that is subject*
31 *to transformation pursuant to this section.*

32 *SEC. 10. Section 41820.6 of the Public Resources Code is*
33 *amended to read:*

34 41820.6. (a) In addition to its authority under Section 41820,
35 the board may, after a public hearing, grant a time extension from
36 the ~~diversion~~ requirements of Section 41780 to a city if both of
37 the following conditions exist:

38 (1) The city was incorporated pursuant to Division 3
39 (commencing with Section 56000) of Title 5 of the Government
40 Code on or after January 1, 2001.

(2) The county within which the city is located did not include provisions in its franchises that ensured that the now incorporated area would comply with the ~~diversion~~ requirements of Section 41780.

(b) The board may authorize a city that meets the requirements of subdivision (a) to submit a source reduction and recycling element that includes an implementation schedule that shows that the city shall ~~divert 50 percent of its estimated generation amount of solid waste from landfill or transformation facilities~~ *comply with the requirements of Section 41780*, within three years from the date on which the source reduction and recycling element is due pursuant to subdivision (b) of Section 41791.5, through source reduction, recycling, and composting activities.

SEC. 11. Section 41821 of the Public Resources Code is amended to read:

41821. (a) (1) Each year following the board's approval of a ~~city, county, or regional agency's jurisdiction's~~ source reduction and recycling element, household hazardous waste element, and nondisposal facility element, ~~the city, county, or regional agency jurisdiction~~ shall submit a report to the board summarizing its progress in reducing solid waste as required by Section 41780, *in accordance with the schedule set forth in this subdivision.*

(2) The annual report shall be due on or before August 1 of the year following board approval of the source reduction and recycling element, the household hazardous waste element, and the nondisposal facility element, and on or before August 1 in each subsequent year. The information in this report shall encompass the previous calendar year, January 1 to December 31, inclusive.

(b) Each jurisdiction's annual report to the board shall, at a minimum, include the following:

(1) Calculations of annual disposal reduction.

~~(2) Information on the changes in waste generated or disposed of due to increases or decreases in population, economics, or other factors in complying with subdivision (c) of Section 41780.1.~~

~~(3)~~

(2) A summary of progress made in implementing the source reduction and recycling element and the household hazardous waste element. ~~The city, county, or regional agency may also include information about existing and new programs it is implementing that are not part of the original or modified source~~

~~reduction and recycling element adopted by the jurisdiction and approved by the board to achieve the diversion requirements of Section 41780.~~

(3) An update of the jurisdiction's source reduction and recycling element and household hazardous waste element to include any new or expanded programs the jurisdiction has implemented or plans to implement.

(4) An update of the jurisdiction's nondisposal facility element to reflect any new or expanded nondisposal facilities the jurisdiction is using or planning to use.

~~(4)~~
(5) A summary of progress made in diversion of construction and demolition of waste material, including information on programs and ordinances implemented by the local government and quantitative data, where available.

~~(5) If the jurisdiction has been granted a time extension by the board pursuant to Section 41820, the jurisdiction shall include a summary of progress made in meeting the source reduction and recycling element implementation schedule pursuant to paragraph (2) of subdivision (a) of Section 41780 and complying with the jurisdiction's plan of correction, prior to the expiration of the time extension.~~

~~(6) If the jurisdiction has been granted an alternative source reduction, recycling, and composting requirement pursuant to Section 41785, the jurisdiction shall include a summary of progress made towards meeting the alternative requirement as well as an explanation of current circumstances that support the continuation of the alternative requirement.~~

~~(7)~~
(6) Other information relevant to compliance with Section 41780.

(c) A jurisdiction may also include, in the report required by this section, all of the following:

~~(1) Any factor that the jurisdiction believes would affect the accuracy of the estimated waste disposal reduction calculation provided in the report pursuant to paragraph (1) of subdivision (b) to accurately reflect the changes in the amount of solid waste that is actually disposed. The jurisdiction may include, but is not limited to including, all of the following factors:~~

1 (1) Information on disposal reported pursuant to Section
2 41821.5 that the jurisdiction believes may be relevant to the
3 board's determination of the jurisdiction's per capita disposal
4 rate.

5 (2) Disposal characterization studies or other completed studies
6 that show the effectiveness of the programs being implemented.

7 (3) Factors that the jurisdiction believes would affect the
8 accuracy of, or mitigate the amount of, solid waste disposed by
9 the jurisdiction, including, but not limited to, either of the
10 following:

11 (A) Whether the jurisdiction hosts a solid waste facility or
12 regional diversion facility.

13 (B) The effects of self-hauled waste and construction and
14 demolition waste.

15 ~~(C) The original or subsequent base year calculation, the amount~~
16 ~~of orphan waste, and the waste disposal reduction adjustment~~
17 ~~methodology.~~

18 (4) The extent to which the jurisdiction previously relied on
19 biomass diversion credit and the extent to which it may be impacted
20 by the lack of the credit.

21 ~~(2)~~

22 (5) Information regarding the programs the jurisdiction is
23 undertaking to respond to the factors specified in paragraph (1)
24 address specific disposal challenges, and why it is not feasible to
25 implement programs to respond to other factors that affect the
26 amount of waste that is disposed.

27 ~~(3) An estimate that the jurisdiction believes reflects that~~
28 ~~jurisdiction's annual reduction or increase in the disposal of solid~~
29 ~~waste.~~

30 (6) Other information that describes the good faith efforts of
31 the jurisdiction to comply with Section 41780.

32 (d) The board shall use, but is not limited to the use of, the
33 annual report in the determination of whether the jurisdiction's
34 source reduction and recycling element needs to be revised or
35 updated.

36 (e) (1) The board shall adopt procedures for requiring additional
37 information in a jurisdiction's annual report. The procedures shall
38 require the board to notify a jurisdiction of any additional required
39 information no later than 120 days after the board receives the
40 report from the jurisdiction.

(2) Paragraph (1) does not prohibit the board from making additional requests for information in a timely manner. A jurisdiction receiving a request for information shall respond in a timely manner.

(3) *If the schedule for the submission of an annual report by a jurisdiction does not correspond with the scheduled review by the board specified in subdivision (a) of Section 41825, the board shall utilize the information contained in the annual report only to assist the board in providing technical assistance and informally reviewing the jurisdiction's diversion program implementation. The board is not required to otherwise review the annual report for those years that are in addition to the review required by subdivision (a) of Section 41825.*

(f) The board shall adopt procedures for conferring with a jurisdiction regarding the implementation of ~~a diversion program or changes to a jurisdiction's calculation of its annual disposal reduction~~ its diversion programs.

(g) *Notwithstanding the Uniform Electronic Transactions Act (Title 2.5 (commencing with Section 1633.1) of Part 2 of Division 3 of the Civil Code), a jurisdiction shall submit the progress report required by this section to the board electronically, using the board's electronic reporting format system.*

(h) *Notwithstanding the reporting schedule required by this section, and in addition to the review required by Section 41825, the board shall visit each jurisdiction not less than once each year to monitor the jurisdictions's implementation and maintenance of its diversion programs.*

SEC. 12. *The heading of Article 4 (commencing with Section 41825) of Chapter 7 of Part 2 of Division 30 of the Public Resources Code is amended to read:*

Article 4. ~~Review and Enforcement~~ *Compliance Orders*

SEC. 13. *Section 41825 of the Public Resources Code is repealed.*

~~41825. (a) At least once every two years, the board shall review each city, county, or regional agency source reduction and recycling element and household hazardous waste element.~~

~~(b) If after a public hearing, which, to the extent possible, is held in the local or regional agency's jurisdiction, the board finds~~

1 that the city, county, or regional agency has failed to implement
2 its source reduction and recycling element or its household
3 hazardous waste element, the board shall issue an order of
4 compliance with a specific schedule for achieving compliance.
5 The compliance order shall include those conditions that the board
6 determines to be necessary for the local agency or regional agency
7 to complete in order to implement its source reduction and
8 recycling element or household hazardous waste element.

9 (e) (1) The board shall confer with a jurisdiction regarding
10 conditions relating to a proposed order of compliance, with a first
11 meeting occurring not less than 60 days before issuing a notice of
12 intent to issue an order of compliance.

13 (2) The board shall issue a notice of intent to issue an order of
14 compliance not less than 30 days before the board holds a hearing
15 to issue the notice of compliance. The notice of intent shall specify
16 all of the following:

17 (A) The proposed basis for issuing an order of compliance.

18 (B) Proposed actions that board staff recommends are necessary
19 for the jurisdiction to complete in order to implement its source
20 reduction and recycling element or household hazardous waste
21 element.

22 (C) Proposed staff recommendations to the board.

23 (3) The board shall consider any information provided pursuant
24 to subdivision (e) of Section 41821 if the proposed issuance of an
25 order of compliance involves changes to a jurisdiction's calculation
26 of annual disposal reduction.

27 *SEC. 14. Section 41825 is added to the Public Resources Code,*
28 *to read:*

29 *41825. (a) The board shall make a finding whether each*
30 *jurisdiction was in compliance with Section 41780 for calendar*
31 *year 2006 and shall review a jurisdiction's compliance with Section*
32 *41780 in accordance with the following schedule:*

33 *(1) If the board makes a finding that the jurisdiction was in*
34 *compliance with Section 41780 for calendar year 2006, the board*
35 *shall review, commencing January 1, 2012, and at least once every*
36 *four years thereafter, whether the jurisdiction has made a good*
37 *faith effort to implement its source reduction and recycling element*
38 *and household hazardous waste element.*

39 *(2) If the board makes a finding that the jurisdiction did not*
40 *meet the requirements of Section 41780 for calendar year 2006*

1 or for any other subsequent calendar year; but made a good faith
2 effort to implement its source reduction and recycling element and
3 household hazardous waste element, the board shall review,
4 commencing January 1, 2010, and at least once every two years
5 thereafter, whether the jurisdiction has made a good faith effort
6 to implement its source reduction and recycling element and
7 household hazardous waste element.

8 (3) If the board makes a finding that the jurisdiction was not in
9 compliance with Section 41780 for calendar year 2006 or for any
10 subsequent calendar year, the board shall review, commencing
11 January 1, 2010, and at least once every two years thereafter,
12 whether the jurisdiction has made a good faith effort to implement
13 its source reduction and recycling element and household
14 hazardous waste element.

15 (4) If, after determining that a jurisdiction is not in compliance
16 with Section 41780 and is subject to paragraph (2) or (3), the
17 board subsequently determines that the jurisdiction has come into
18 compliance with Section 41780, the board shall review, at least
19 once every four years, whether the jurisdiction has made a good
20 faith effort to implement its source reduction and recycling element
21 and household hazardous waste in the same manner as a
22 jurisdiction that is subject to paragraph (1).

23 (b) In addition to the requirements of subdivision (a), the board
24 may review whether a jurisdiction is in compliance with Section
25 41780 in accordance with the requirements of this section at any
26 time that the board receives information that indicates the
27 jurisdiction may not be making a good faith effort to implement
28 its source reduction and recycling element and household
29 hazardous waste element.

30 (c) (1) Before issuing a compliance order pursuant to
31 subdivision (d), the board shall confer with the jurisdiction
32 regarding conditions relating to the proposed order of compliance,
33 with a first meeting occurring not less than 60 days before issuing
34 a notice of intent to issue an order of compliance.

35 (2) The board shall issue a notice of intent to issue an order of
36 compliance not less than 30 days before the board holds a hearing
37 to issue the notice of compliance. The notice of intent shall specify
38 all of the following:

39 (A) The proposed basis for issuing an order of compliance.

1 (B) *The proposed actions the board recommends are necessary*
2 *for the jurisdiction to complete to implement its source reduction*
3 *and recycling element or household hazardous waste element.*

4 (C) *The proposed recommendations to the board.*

5 (3) *The board shall consider any information provided pursuant*
6 *to subdivision (c) of Section 41821 if the proposed issuance of an*
7 *order of compliance involves changes to a jurisdiction's calculation*
8 *of annual disposal.*

9 (d) (1) *If, after holding a public hearing, which, to the extent*
10 *possible, shall be held in the local or regional agency's*
11 *jurisdiction, the board finds that a jurisdiction has failed to make*
12 *a good faith effort to implement its source reduction and recycling*
13 *element or its household hazardous waste element, the board shall*
14 *issue an order of compliance with a specific schedule for achieving*
15 *compliance.*

16 (2) *The compliance order shall include those conditions that*
17 *the board determines to be necessary for the jurisdiction to*
18 *implement its diversion programs.*

19 (3) *In addition to considering the good faith efforts of a*
20 *jurisdiction, as specified in subdivision (e), to implement a*
21 *diversion program, the board shall consider all of the following*
22 *factors in determining whether or not to issue a compliance order:*

23 (A) *The rural nature of the jurisdiction.*

24 (B) *Whether an exceptional growth rate may have affected*
25 *compliance.*

26 (C) *Other information that the jurisdiction may provide that*
27 *indicates the effectiveness of the jurisdiction's programs, such as*
28 *disposal characterization studies or other jurisdiction specific*
29 *information.*

30 (e) *For purposes of making a determination pursuant to this*
31 *section whether a jurisdiction has failed to make a good faith effort*
32 *to implement its source reduction and recycling element or its*
33 *household hazardous waste element, the board shall consider all*
34 *of the following criteria:*

35 (1) *For the purposes of this section, "good faith effort" means*
36 *all reasonable and feasible efforts by a jurisdiction to implement*
37 *those programs or activities identified in its source reduction and*
38 *recycling element or household hazardous waste element, or*
39 *alternative programs or activities that achieve the same or similar*
40 *results.*

1 (2) For purposes of this section “good faith effort” may also
2 include the evaluation by a jurisdiction of improved technology
3 for the handling and management of solid waste that would reduce
4 costs, improve efficiency in the collection, processing, or marketing
5 of recyclable materials or yard waste, and enhance the ability of
6 the jurisdiction to adequately address all sources of significant
7 disposal, the submission by the jurisdiction of a compliance
8 schedule, and the undertakers of all other reasonable and feasible
9 efforts to implement the programs identified in the jurisdiction’s
10 source reduction and recycling element or household hazardous
11 waste element.

12 (3) In determining whether a jurisdiction has made a good faith
13 effort, the board shall consider the enforcement criteria included
14 in its enforcement policy, as adopted on April 25, 1995, or as
15 subsequently amended.

16 (4) The board shall consider all of the following when
17 considering whether a jurisdiction has made a good faith effort
18 to implement its source reduction and recycling element or its
19 household hazardous waste element:

20 (A) Natural disasters.

21 (B) Budgetary conditions within a jurisdiction that could not
22 be remedied by the imposition or adjustment of solid waste fees.

23 (C) Work stoppages that directly prevent a jurisdiction from
24 implementing its source reduction and recycling element or
25 household hazardous waste element.

26 (D) The impact of the failure of federal, state, and other local
27 agencies located within the jurisdiction to implement source
28 reduction and recycling programs in the jurisdiction.

29 (E) The extent to which the jurisdiction has implemented
30 additional source reduction, recycling, and composting activities.

31 (F) The extent to which the jurisdiction has made program
32 implementation choices driven by considerations related to other
33 environmental issues, including climate change.

34 (G) Whether the jurisdiction has provided information to the
35 board concerning whether construction and demolition waste
36 material is at least a moderately significant portion of the waste
37 stream, and, if so, whether the local jurisdiction has adopted an
38 ordinance for diversion of construction and demolition waste
39 materials from solid waste disposal facilities, has adopted a model
40 ordinance pursuant to subdivision (a) of Section 42912 for

1 *diversion of construction and demolition waste materials from*
2 *solid waste disposal facilities, or has implemented another program*
3 *to encourage or require diversion of construction and demolition*
4 *waste materials from solid waste disposal facilities.*

5 *(H) The extent to which the jurisdiction has implemented*
6 *programs to comply with Section 41780 and to maintain its per*
7 *capita disposal rate.*

8 *(5) In making a determination whether a jurisdiction has made*
9 *a good faith effort, pursuant to this section, the board may consider*
10 *a jurisdiction's per capita disposal rate as a factor in determining*
11 *whether the jurisdiction adequately implemented its diversion*
12 *programs. The board shall not consider a jurisdiction's per capita*
13 *disposal rate to be determinative as to whether the jurisdiction*
14 *has made a good faith effort to implement its source reduction and*
15 *recycling element or its household hazardous waste element.*

16 *SEC. 15. The heading of Article 5 (commencing with Section*
17 *41850) of Chapter 7 of Part 2 of Division 30 of the Public*
18 *Resources Code is amended to read:*

19
20 *Article 5. Enforcement and Penalties*
21

22 *SEC. 16. Section 41850 of the Public Resources Code is*
23 *amended to read:*

24 *41850. (a) Except as specifically provided in Section 41813,*
25 *if, after holding the public hearing and issuing an order of*
26 *compliance pursuant to Section 41825, the board finds that the*
27 *city, county, or regional agency jurisdiction has failed to make a*
28 *good faith effort to implement its source reduction and recycling*
29 *element or its household hazardous waste element, the board may*
30 *impose administrative civil penalties upon the city or county or,*
31 *pursuant to Section 40974, upon the city or county as a member*
32 *of a regional agency, of up to ten thousand dollars (\$10,000) per*
33 *day until the city, county, or regional agency jurisdiction*
34 *implements the element.*

35 *(b) In determining whether or not to impose any penalties, or*
36 *in determining the amount of any penalties imposed under this*
37 *section, including any penalties imposed due to the exclusion of*
38 *solid waste pursuant to Section 41781.2 that results in a reduction*
39 *in the quantity of solid waste diverted by a city, county, or regional*
40 *agency jurisdiction, the board shall consider whether the city,*

1 *county, or regional agency jurisdiction* has made a good faith
2 effort to implement its source reduction and recycling element or
3 its household hazardous waste element. In addition, the board shall
4 consider only those relevant circumstances that have prevented a
5 *city, county, or regional agency jurisdiction* from meeting the
6 requirements of this division, including, *but not limited to, the*
7 *factors described in subdivisions(d) and (e) of Section 41825.*

8 ~~(1) Natural disasters.~~

9 ~~(2) Budgetary conditions within a city, county, or regional~~
10 ~~agency that could not be remedied by the imposition or adjustment~~
11 ~~of solid waste fees.~~

12 ~~(3) Work stoppages that directly prevent a city, county, or~~
13 ~~regional agency from implementing its source reduction and~~
14 ~~recycling element or household hazardous waste element.~~

15 ~~(4) The impact of the failure of federal, state, and other local~~
16 ~~agencies located within the jurisdiction to implement source~~
17 ~~reduction and recycling programs in the jurisdiction on the host~~
18 ~~jurisdiction's ability to meet the requirements of paragraph (2) of~~
19 ~~subdivision (a) of Section 41780.~~

20 ~~(e) In addition to the factors specified in subdivision (b), the~~
21 ~~board shall consider all of the following:~~

22 ~~(1) The extent to which a city, county, or regional agency has~~
23 ~~implemented additional source reduction, recycling, and~~
24 ~~composting activities to comply with the diversion requirements~~
25 ~~of paragraphs (1) and (2) of subdivision (a) of Section 41780.~~

26 ~~(2) The extent to which a city, county, or regional agency is~~
27 ~~meeting the diversion requirements of paragraphs (1) and (2) of~~
28 ~~subdivision (a) of Section 41780.~~

29 ~~(3) Whether the jurisdiction has requested and been granted an~~
30 ~~extension to the requirements of Section 41780, pursuant to Section~~
31 ~~41820, or an alternative requirement to Section 41780, pursuant~~
32 ~~to Section 41785.~~

33 ~~(4) Whether a local jurisdiction has provided information to the~~
34 ~~board concerning whether construction and demolition waste~~
35 ~~material is at least a moderately significant portion of the waste~~
36 ~~stream, and, if so, whether the local jurisdiction has adopted an~~
37 ~~ordinance for diversion of construction and demolition waste~~
38 ~~materials from solid waste disposal facilities, has adopted a model~~
39 ~~ordinance pursuant to subdivision (a) of Section 42912 for~~
40 ~~diversion of construction and demolition waste materials from~~

1 solid waste disposal facilities, or has implemented another program
2 to encourage or require diversion of construction and demolition
3 waste materials from solid waste disposal facilities.

4 (d) (1) For the purposes of this section, “good faith effort”
5 means all reasonable and feasible efforts by a city, county, or
6 regional agency to implement those programs or activities
7 identified in its source reduction and recycling element or
8 household hazardous waste element, or alternative programs or
9 activities that achieve the same or similar results.

10 (2) For purposes of this section “good faith effort” may also
11 include the evaluation by a city, county, or regional agency of
12 improved technology for the handling and management of solid
13 waste that would reduce costs, improve efficiency in the collection,
14 processing, or marketing of recyclable materials or yard waste,
15 and enhance the ability of the city, county, or regional agency to
16 meet the diversion requirements of paragraphs (1) and (2) of
17 subdivision (a) of Section 41780, provided that the city, county,
18 or regional agency has submitted a compliance schedule pursuant
19 to Section 41825, and has made all other reasonable and feasible
20 efforts to implement the programs identified in its source reduction
21 and recycling element or household hazardous waste element.

22 (3) In determining whether a jurisdiction has made a good faith
23 effort, the board shall consider the enforcement criteria included
24 in its enforcement policy, as adopted on April 25, 1995, or as
25 subsequently amended.

26 *SEC. 17. Section 42921 of the Public Resources Code is*
27 *amended to read:*

28 42921. (a) Each state agency and each large state facility shall
29 divert at least 25 percent of all solid waste generated by the state
30 agency from landfill disposal or transformation facilities by January
31 1, 2002, through source reduction, recycling, and composting
32 activities.

33 (b) On and after January 1, 2004, each state agency and each
34 large state facility shall divert at least 50 percent of all solid waste
35 from landfill disposal or transformation facilities through source
36 reduction, recycling, and composting activities.

37 *SEC. 18. Section 42921.5 is added to the Public Resources*
38 *Code, to read:*

39 42921.5. (a) On and after January 1, 2009, the board shall
40 determine each state agency’s or a large state facility’s compliance

1 with Section 42921, for each year commencing with January 1,
2 2007, by comparing the per capita disposal rate in subsequent
3 years with the equivalent per capita disposal rate that would have
4 been necessary for the state agency or large state facility to comply
5 with Section 42921 on January 1, 2007, as calculated pursuant to
6 subdivision (d).

7 (b) In making a determination whether a state agency or large
8 state facility is in compliance with the requirements of Section
9 42921, the board may consider an agency's or facility's per capita
10 disposal rate as a factor in determining whether the state agency
11 or large state facility is adequately implementing its integrated
12 waste management plan. The board shall not consider a state,
13 agency, or large state facility's per capita disposal rate to be
14 determinative when considering whether the agency's or facility
15 is implementing its integrated waste management plan.

16 (c) When determining whether an agency or facility is in
17 compliance with Section 42921, the board shall consider that an
18 increase in the per capita disposal rate is a result of disposal
19 amounts increasing faster than the growth of the state agency or
20 large state facility. The board shall use an increase in the per
21 capita disposal rate that is in excess of the equivalent per capita
22 disposal rate as a factor in determining whether the board is
23 required to more closely examine the agency's or facility's plan
24 implementation efforts. If indicated by this examination, the board
25 may require a state agency or large state facility to expand existing
26 programs or implement new programs.

27 (d) (1) Except as provided in paragraph (2), "per capita
28 disposal" or "per capita disposal rate" means the total annual
29 disposal by a state agency or large state facility, in pounds, divided
30 by total number of employees in that state agency or large state
31 facility, and divided by 365 days.

32 (2) The board may alternatively define per capita disposal or
33 per capita disposal rate for a state agency or large state facility
34 that has a significant amount of disposal from nonemployees or
35 for other reasons that would make calculation of per capita
36 disposal by the number of employees inaccurate.

37 SEC. 19. Section 42926 of the Public Resources Code is
38 amended to read:

39 42926. (a) In addition to the information provided to the board
40 pursuant to Section 12167.1 of the Public Contract Code, each

1 state agency shall submit ~~a~~ *an annual* report to the board
2 summarizing its progress in reducing solid waste as required by
3 Section 42921. The annual report shall be due on or before ~~April~~
4 ~~1, 2002~~ *September 1, 2009*, and on or before ~~April 1~~ *September 1*
5 in each subsequent year. The information in this report shall
6 encompass the previous calendar year.

7 (b) Each state agency's annual report to the board shall, at a
8 minimum, include all of the following:

9 (1) Calculations of annual disposal reduction.

10 (2) Information on the changes in waste generated or disposed
11 of due to increases or decreases in employees, economics, or other
12 factors.

13 (3) A summary of progress made in implementing the integrated
14 waste management plan.

15 (4) The extent to which the state agency intends to utilize
16 programs or facilities established by the local agency for the
17 handling, diversion, and disposal of solid waste. If the state agency
18 does not intend to utilize those established programs or facilities,
19 the state agency shall identify sufficient disposal capacity for solid
20 waste that is not source reduced, recycled, or composted.

21 ~~(5) If the agency has been granted a time extension by the board~~
22 ~~pursuant to Section 42923, the state agency shall include a~~
23 ~~summary of progress made in meeting the integrated waste~~
24 ~~management plan implementation schedule pursuant to subdivision~~
25 ~~(b) of Section 42921 and complying with the state agency's plan~~
26 ~~of correction, prior to the expiration of the time extension.~~

27 ~~(6) If the state agency has been granted an alternative source~~
28 ~~reduction, recycling, and composting requirement pursuant to~~
29 ~~Section 42922, the state agency shall include a summary of~~
30 ~~progress made towards meeting the alternative requirement as well~~
31 ~~as an explanation of current circumstances that support the~~
32 ~~continuation of the alternative requirement.~~

33 ~~(7)~~

34 (5) Other information relevant to compliance with Section
35 42921.

36 (c) The board shall use, but is not limited to the use of, the
37 annual report in the determination of whether the agency's
38 integrated waste management plan needs to be revised.

39 *SEC. 20. Section 42927 is added to the Public Resources Code,*
40 *to read:*

1 42927. (a) Notwithstanding Section 12167 of the Public
2 Contract Code, a community college district shall expend the
3 revenues derived from the sale of recyclable materials for the
4 purposes of offsetting the recycling program costs imposed
5 pursuant to this chapter.

6 (b) A community college district shall expend all cost savings
7 that result from implementation of the district's integrated waste
8 management plan pursuant to this chapter to fund the continued
9 implementation of the plan.

10 (c) A community college district shall expend the revenues and
11 cost savings specified in subdivisions (a) and (b) to offset recycling
12 program costs incurred pursuant to this chapter from the initial
13 date when the community college district became subject to this
14 chapter.

15 (d) A community college district shall provide information on
16 the quantities of recyclable materials collected for recycling at
17 least annually to the board, according to a schedule determined
18 by the board and the district.

19 SEC. 21. No reimbursement is required by this act pursuant
20 to Section 6 of Article XIII B of the California Constitution because
21 a local agency or school district has the authority to levy service
22 charges, fees, or assessments sufficient to pay for the program or
23 level of service mandated by this act or because the act provides
24 for offsetting savings to local agencies or school districts that
25 result in no net costs to the local agencies or school districts,
26 within the meaning of Section 17556 of the Government Code.

27 SECTION 1. ~~Section 41821 of the Public Resources Code is~~
28 ~~amended to read:~~

29 41821. (a) (1) ~~Except as provided in subdivision (b) of Section~~
30 ~~41826, each year following the board's approval of a city, county,~~
31 ~~or regional agency's source reduction and recycling element,~~
32 ~~household hazardous waste element, and nondisposal facility~~
33 ~~element, the city, county, or regional agency shall submit a report~~
34 ~~to the board summarizing its progress in reducing solid waste as~~
35 ~~required by Section 41780.~~

36 (2) ~~The annual report shall be due on or before August 1 of the~~
37 ~~year following board approval of the source reduction and recycling~~
38 ~~element, the household hazardous waste element, and the~~
39 ~~nondisposal facility element, and on or before August 1 in each~~

1 subsequent year. The information in this report shall encompass
2 the previous calendar year, January 1 to December 31, inclusive.

3 (b) ~~Each jurisdiction's annual report to the board shall, at a~~
4 ~~minimum, include the following:~~

5 (1) ~~Calculations of annual disposal reduction.~~

6 (2) ~~Information on the changes in waste generated or disposed~~
7 ~~of due to increases or decreases in population, economics, or other~~
8 ~~factors in complying with subdivision (c) of Section 41780.1.~~

9 (3) ~~A summary of progress made in implementing the source~~
10 ~~reduction and recycling element and the household hazardous~~
11 ~~waste element. The city, county, or regional agency may also~~
12 ~~include information about existing and new programs it is~~
13 ~~implementing that are not part of the original or modified source~~
14 ~~reduction and recycling element adopted by the jurisdiction and~~
15 ~~approved by the board to achieve the diversion requirements of~~
16 ~~Section 41780.~~

17 (4) ~~A summary of progress made in diversion of construction~~
18 ~~and demolition of waste material, including information on~~
19 ~~programs and ordinances implemented by the local government~~
20 ~~and quantitative data, where available.~~

21 (5) ~~If the jurisdiction has been granted a time extension by the~~
22 ~~board pursuant to Section 41820.5, the jurisdiction shall include~~
23 ~~a summary of progress made in meeting the source reduction and~~
24 ~~recycling element implementation schedule pursuant to paragraph~~
25 ~~(2) of subdivision (a) of Section 41780 and complying with the~~
26 ~~jurisdiction's plan of correction, prior to the expiration of the time~~
27 ~~extension.~~

28 (6) ~~If the jurisdiction has been granted an alternative source~~
29 ~~reduction, recycling, and composting requirement pursuant to~~
30 ~~Section 41786, the jurisdiction shall include a summary of progress~~
31 ~~made towards meeting the alternative requirement as well as an~~
32 ~~explanation of current circumstances that support the continuation~~
33 ~~of the alternative requirement.~~

34 (7) ~~Other information relevant to compliance with Section~~
35 ~~41780.~~

36 (c) ~~A jurisdiction may also include, in the report required by~~
37 ~~this section, all of the following:~~

38 (1) ~~Any factor that the jurisdiction believes would affect the~~
39 ~~accuracy of the estimated waste disposal reduction calculation~~
40 ~~provided in the report pursuant to paragraph (1) of subdivision (b)~~

1 to accurately reflect the changes in the amount of solid waste that
2 is actually disposed. The jurisdiction may include, but is not limited
3 to including, all of the following factors:

4 (A) Whether the jurisdiction hosts a solid waste facility.

5 (B) The effects of self-hauled waste and construction and
6 demolition waste.

7 (C) The original or subsequent base year calculation, the amount
8 of orphan waste, and the waste disposal reduction adjustment
9 methodology.

10 (2) Information regarding the programs the jurisdiction is
11 undertaking to respond to the factors specified in paragraph (1);
12 and why it is not feasible to implement programs to respond to
13 other factors that affect the amount of waste that is disposed.

14 (3) An estimate that the jurisdiction believes reflects that
15 jurisdiction's annual reduction or increase in the disposal of solid
16 waste.

17 (d) The board shall use, but is not limited to the use of, the
18 annual report in the determination of whether the jurisdiction's
19 source reduction and recycling element needs to be revised.

20 (e) (1) The board shall adopt procedures for requiring additional
21 information in a jurisdiction's annual report. The procedures shall
22 require the board to notify a jurisdiction of any additional required
23 information no later than 120 days after the board receives the
24 report from the jurisdiction.

25 (2) Paragraph (1) does not prohibit the board from making
26 additional requests for information in a timely manner. A
27 jurisdiction receiving a request for information shall respond in a
28 timely manner.

29 (f) The board shall adopt procedures for conferring with a
30 jurisdiction regarding the implementation of a diversion program
31 or changes to a jurisdiction's calculation of its annual disposal
32 reduction.

33 SEC. 2. Section 41826 is added to the Public Resources Code,
34 to read:

35 41826. (a) The Legislature finds and declares all of the
36 following:

37 (1) The statewide diversion rate for the year 2005 is expected
38 to exceed 50 percent, and jurisdictions throughout the state have
39 set forth comprehensive arrays of programs to divert solid waste
40 from disposal.

1 ~~(2) Adjustments to the ways in which diversion achievements~~
2 ~~are measured and evaluated need to be implemented to simplify~~
3 ~~the system, while improving its accuracy and adding additional~~
4 ~~emphasis to the implementation of those diversion programs.~~

5 ~~(3) New methods of streamlining accounting of disposal~~
6 ~~quantification need to be examined while ensuring that the state~~
7 ~~takes a lead role in adopting statewide strategies to divert solid~~
8 ~~waste through source reduction, recycling, and composting.~~

9 ~~(4) Each city or county should continue to implement diversion~~
10 ~~programs to prevent an increase in disposal, consistent with the~~
11 ~~waste management hierarchy specified in Section 40051 and in~~
12 ~~accordance with the existing requirements of this division.~~

13 ~~(b) (1) If the board determines that a city or county has diverted~~
14 ~~more than 50 percent of solid waste from landfill disposal through~~
15 ~~source reduction, recycling, and composting activities, the board~~
16 ~~may authorize that city or county to submit once every 2 years the~~
17 ~~information required in the annual report pursuant to subdivision~~
18 ~~(b) of Section 41821. The biennial report shall be due on or before~~
19 ~~August 1 of the subsequent year following board authorization~~
20 ~~and shall encompass the two previous calendar years, January 1~~
21 ~~to December 31, inclusive.~~

22 ~~(2) If the board authorizes a city or county to submit the~~
23 ~~information specified in paragraph (1) once every 2 years, and~~
24 ~~either the city or county subsequently fails to divert 50 percent of~~
25 ~~the solid waste, or if the board rescinds the authorization, the city~~
26 ~~or county shall submit the information required pursuant to~~
27 ~~subdivision (b) of Section 41821 annually.~~